B6-115-11

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TEAMSTERS LOCAL UNION NO. 115 2833 Cottman Avenue Philadelphia, PA 19149 and TEAMSTERS LOCAL UNION NO. 115 HEALTH & WELFARE FUND 2833 Cottman Avenue Philadelphia, PA 19149 and TEAMSTERS LOCAL UNION NO. 115 LEGAL SERVICE FUND 2833 Cottman Avenue Philadelphia, PA 19149 v. GRAEBEL/EASTERN MOVERS, INC. 923 N. Lenola Road Moorestown, NJ 08057-1042	: : : : : : : : : : : : : : : : : : :	CIVIL ACTION NO:

COMPLAINT

1. This is an action brought pursuant to Section 301 of the Labor-Management Relations Act of 1947, 29 U.S.C. §185 and the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §1001, et seq., as amended by the Multi-Employer Pension Plan Amendments Act of 1980 (MEPPAA), (1) to recover union dues owed to the Teamsters Local Union No. 115 ("Union"), (2) to recover employer contributions owed to the Teamsters Local Union No. 115 Health & Welfare Fund and Teamsters Local Union No. 115 Legal Service Fund ("Welfare Fund" and "Legal Service Fund"), (2) for liquidated damages and interest and (3) costs and reasonable attorney's fees.

2. Teamsters Local Union No. 115 is an unincorporated association with a place of business located at 2833 Cottman Ave., Philadelphia, Pennsylvania. Local 115 is a "labor

organization" within the meaning of Section 2(5) and 302(a) of the Labor Management Relations Act, as amended, 29 U.S.C. §§ 152(5) and 185(a).

3. Plaintiff Welfare Fund is a welfare fund jointly administered by the trustees representing various employers and Teamsters Local Union No. 115 in various industries. The purpose of the Fund is to provide health and welfare benefits including scholarships for employees employed by the participating employers pursuant to collective bargaining agreements between said employers and said Union. A number of the employees of defendant Employer are participants in and beneficiaries of the Fund. The Fund is established pursuant to an Agreement and Declaration of Trust in accordance with Section 302 of the Labor-Management Relations Act, as amended, 29 U.S.C. §186.

4. Plaintiff Legal Fund is a legal service fund jointly administered by the trustees representing various employers and Teamsters Local Union No. 115 in various industries. The purpose of the Fund is to provide legal service benefits for employees employed by the participating employers pursuant to collective bargaining agreements between said employers and said Union. A number of the employees of defendant Employer are participants in and beneficiaries of the Fund. The Fund is established pursuant to an Agreement and Declaration of Trust in accordance with Section 302 of the Labor-Management Relations Act, as amended, 29 U.S.C. §186.

5. Defendant Employer engages, inter alia, in office and industrial relocation activity from a facility located in Moorestown, New Jersey. Defendant Employer is engaged in an industry affecting commerce within the meaning of Section 301 of the Labor-Management Relations Act, as amended, 29 U.S.C. §185.

6. Defendant Employer is a signatory to a collective bargaining agreement with the Union, and as such, is bound by said collective bargaining agreement and the terms of the Agreement and Declaration of Trust for the Fund. The collective bargaining agreement covering employees employed by the Employer working in the covered job classifications is attached hereto as Exhibit "A" (5/1/14 – 4/30/17). The Agreement and Declaration of Trust of the Teamsters Local Union No. 115 Health & Welfare Fund is attached as Exhibit "B" and the Agreement and Declaration of Trust of the Teamsters Local Union No. 115 Legal Service Fund is attached as Exhibit "C".

JURISDICTION

7. This court has jurisdiction over this action pursuant to Section 301 of the Labor-Management Relations Act of 1947, 29 U.S.C. §185 and the Employee Retirement Income Security Act of 1947 (ERISA), 29 U.S.C. §1001 et seq., as amended by the Multi-Employer Pension Plan Amendments Act of 1980 (MEPPA).

COUNT I – LABOR MANAGEMENT RELATIONS ACT - UNION

8. Pursuant to the terms of the collective bargaining agreement, defendant Employer is obligated to deduct and remit to the Union dues from employees employed in the bargaining unit employed by defendant Employer represented by the Union.

9. Since January 1, 2017, defendant Employer has failed to remit the dues that it deducted from the wages of bargaining unit employees.

10. Based upon the information provided by defendant employer, it has failed to pay the Union $5,709.00 in dues, which is the amount that it deducted from employees' wages from January 1, 2017 to date and failed to remit to the Union.

11. Since January 1, 2017 and continuing to date, the defendant Employer has failed to submit accurate dues deductions and reports to the plaintiff union as required by said Agreement.

WHEREFORE, plaintiff Union requests that this court:

(a) Order defendant Employer to comply with the terms of the collective bargaining agreement by submitting regular reports and making timely remission of dues it deducted from employees employed in the bargaining unit to the Union;

(b) Order Defendant Employer to submit to an audit of its payroll books and records to determine the exact amount of its delinquency;

(c) Enter judgment in favor of the plaintiff union and against the defendant Employer in the amount of $5,709.00, plus any additional amount determined by the audit to be owed to the plaintiff Union, plus liquidated damages and interest;

(d) Order defendant Employer to pay to plaintiff Union the costs incurred in prosecuting this suit; including the cost of the payroll compliance review and audit and reasonable attorney's fees; and

(e) Grant plaintiff Union such other and further relief as the court shall deem just and proper in order to require the defendant to fully comply with the terms of the agreement.

COUNT II - LABOR MANAGEMENT RELATIONS ACT

12. The allegations of paragraphs 1 through 11 above are incorporated herein by reference as if set forth more fully at length.

13. Pursuant to the terms of the collective bargaining agreement, defendant Employer is obligated to file regular reports and to make payments to plaintiff Funds for contributions on behalf of the employees employed by defendant Employer and represented by the Union.

14. At various periods from May 1, 2014 through April 30, 2017, defendant Employer has failed to file accurate periodic and regular reports and/or contributions as required by said agreement.

15. Based upon information provided by Defendant Employer and belief, it has failed to pay to the Funds, the following:

Welfare (including Scholarship)	$ 255.20
Legal	$2,296.80
TOTAL AMOUNT DUE	**$2,552.00**

An audit will determine the exact amount of the delinquency owed to plaintiff Funds.

16. Since January 1, 2017, and continuing to date, defendant Employer has failed to submit accurate periodic and regular contributions and reports to the plaintiffs as required by said agreement.

WHEREFORE, plaintiff Funds request that this court:

(a) Order defendant Employer to comply with the terms of the collective bargaining agreement by submitting regular reports and making timely payments and contributions to the plaintiffs in accordance with the terms of the agreement;

(b) Order Defendant Employer to submit, if necessary, to an audit of its payroll books and records to determine the exact amount of its delinquency;

(c) Enter judgment in favor of the plaintiffs and against the defendant Employer in the amount of $2,552.00, plus any additional amount determined by the audit to be owed to the plaintiffs, plus liquidated damages and interest;

(d) Order defendant Employer to pay to plaintiffs the costs incurred in prosecuting this suit; including the cost of the payroll compliance review and audit and reasonable attorney's fees; and

(e) Grant plaintiffs such other and further relief as the court shall deem just and proper in order to require the defendant to fully comply with the terms of the agreement.

COUNT III - ERISA, AS AMENDED BY MEPPAA

17. The allegations of paragraphs 1 through 11 above are incorporated herein by reference as if set forth more fully at length.

18. This court has jurisdiction over this action pursuant to Section 502 of ERISA, 29 U.S.C. §1132, as amended by Section 306 of MEPPA, which adds Section 515 to ERISA.

19. The failure and refusal of defendant to make the payment and contributions due and owing to the plaintiffs in accordance with the terms of the Agreement violates the provisions of ERISA, as amended by MEPPA.

WHEREFORE, plaintiff Funds request that this court:

(a) Order defendant Employer to comply with the terms of the collective bargaining agreement by submitting regular reports and making timely payments and contributions to the plaintiff Funds in accordance with the terms of the agreement;

(b) Order Defendant Employer to submit to an audit of its payroll books and records to determine the exact amount of its delinquency;

(c) Enter judgment in favor of the plaintiff funds and against the defendant Employer in the amount of $2,552.00, plus any additional amount determined by the audit to be owed to the plaintiff Funds, plus liquidated damages and interest;

(d) Order defendant Employer to pay to plaintiff funds the costs incurred in prosecuting this suit; including the cost of the payroll compliance review and audit and reasonable attorney's fees; and

(e) Grant plaintiffs such other and further relief as the court shall deem just and proper in order to require the defendant to fully comply with the terms of the agreement.

Respectfully submitted,

MARKOWITZ & RICHMAN

BY: Stephen C. Richman/s
STEPHEN C. RICHMAN, ESQUIRE **(SCR6829)**
123 South Broad Street
Suite 2020
Philadelphia, PA 19109
215-875-3114
Attorney for Plaintiffs
Teamsters Local Union No. 115, Teamsters Local Union No. 115 Health & Welfare Fund and Teamsters Local Union No. 115 Legal Service Fund

Dated: March 27, 2017